

R E M A R K S

The Examiner is respectfully requested to acknowledge applicants' claim for domestic priority under 35 USC 119(e).

Item Nos. 1 and 2 on pages 2 and 3 of the Office Action concerns the Restriction Requirement. At the top of page 3 of the Office Action, it was stated that the Restriction Requirement was made final.

Reconsideration of the Restriction Requirement with respect to Group II (claims 10 and 13 to 17 drawn to bumpers) is respectfully requested, since it appears that the Examiner searched Group II as indicated by the Examiner's citation of Seydel et al. USP 6,266,897. At the bottom of page 6 of the September 10, 2003 Office Action, the following was stated:

"Seydel et al. '943 teaches that footwear can contain **bumpers** 190, 196) located on the lateral side of the shoe to aid in preventing the side impacts and to aid in preventing rollover of the user's foot during use, thus preventing twisted ankles (col. 21, lines 19-25)." (emphasis provided)

It is therefore respectfully requested that claims 10 and 13 to 17 be examined.

The amendment to claim 1 concerning "contact a foot" is supported by Figs. 1 and 2 and is supported in the specification on page 12, lines 4 to 5; page 19, lines 11 to 16; page 22, lines 15 to 17; page 23, lines 6 to 8; and page 25, lines 14 to 18.

The amendment to claim 1 regarding the calcaneofibular and anterior talofibular ligaments are supported in the specification on page 24, lines 7 to 9 and page 25, last paragraph.

Claims 2 and 3 were amended into independent format by inclusion of the features of claim 1.

The amendment to claim 4 is supported in the specification on page 23, lines 17 to 20.

Withdrawn claims 18 to 20 were canceled. Applicants reserve their rights to file a Divisional application directed to such claims.

New claims 21 to 23 correspond respectively to original claims 10 to 12.

New claims 24 to 31 include the features of claims 5 to 12, respectively.

New claim 32 includes features of amended claim 1.

New claim 33 includes the features of original claim 10.

Claim 4 was rejected under 35 USC 112, second paragraph, for the reasons set forth in Item Nos. 3 and 4 of the Office Action.

Claim 4 was amended to avoid the 35 USC 112, second paragraph rejection.

It is respectfully submitted that the present claims comply with all the requirements of 35 USC 112.

Applicants are pleased to note, as indicated in Item Nos. 9 and 10 at the middle of page 7 of the Office Action, that claims 2 to 9 were deemed to be allowable by the Examiner and that claim 4 would be allowable if rewritten to overcome the 35 USC 112, second paragraph rejection of claim 4.

In view of the above amendment to claims 2 and 3 to place such claims into independent format, it is respectfully submitted that claims 2 and 3 be allowed and that all claims which depend directly or indirectly on claims 2 and 3 also be allowed.

Withdrawn claims 10 and 11 depend on allowable independent claim 3. It is therefore respectfully requested that claims 10 and 11 be rejoined and allowed.

Claim 1 was rejected under 35 USC 102 as being anticipated by Sanchez USP 5,819,439 or Cochrane USP 5,269,078. The reasons for this rejection are set forth in Item No. 6 on pages 4 and 5 of the Office Action.

Sanchez is directed to a sneaker for bodybuilders. The Sanchez sneaker provides lateral support when one's feet are

planted. In contrast to Sanchez, applicants' claimed invention serves to prevent ankle sprains in athletes that move front to back, laterally, and jump.

Strap 24 in Sanchez is stationary, whereas the elongate straps in applicants' claim 1 are "tightenable" and are thus adjustable.

The straps in applicants' claim 1 are securable to each other, whereas the straps of Sanchez are not.

The course of strap 24 in Sanchez is very different from applicants' strap 12. The strap 24 in Sanchez exits the shoe vertically and does not approximate the anatomy of the anterior talofibular ligament and calcaneofibular ligaments in contrast to the straps in applicants' claim 1.

The strap 30 in Sanchez extends only over the vamp portion of the shoe, while applicants' strap 10 goes directly over the foot and across the arch of the foot directly. Applicants' strap 10 extends such that it is approximately perpendicular to the anterior talofibular ligament.

Cochrane describes a boot for skiing, hiking or climbing. In contrast to the presently claimed invention, Cochrane does not teach or suggest a sneaker such as used by a basketball or soccer player, which prevents ankle sprains.

The Cochrane boot does not provide the ligament support which is provided by applicants' claimed invention.

The configuration and course of the straps in Cochrane are substantially different from that which is recited in applicants' claims.

Claim 12 was rejected under 35 USC 103 as being unpatentable over either one of Sanchez or Cochrane in combination with Seydel USP 6,266,897. The reasons for this rejection are set forth in Item No. 8 on pages 6 and 7 of the Office Action.

Claim 12 depends on claim 10. Claim 10 depends on claim 3. Claim 3 is now in allowable independent format. Therefore, this rejection should be withdrawn and claim 12 should be allowed.

Sanchez and Cochrane were discussed hereinabove.

Seydel et al. is directed to a sole based device containing liquids or gaseous materials to diminish and dissipate forces on the lower extremities during activities.

The extensions in Seydel et al. are medial, lateral and near the anterior instep and are not designed to prevent inversion injuries, unlike the present invention. The extensions in Seydel et al. are meant only to dissipate compressive stress forces.

The extensions 190 and 196 in Seydel et al. are chambers that extend beyond the sole, but are not structurally or

functionally similar to applicants' lateral bumpers 16 and 17, which are specifically located adjacent to the anterior heel and the head of the 5th metatarsal to decrease lateral ankle injuries.

It is therefore respectfully submitted that applicants' claimed invention is not anticipated and is not rendered obvious over the references, either singly or combined in the manner relied upon in the Office Action, in view of the many distinctions discussed hereinabove. It is furthermore submitted that there are no teachings in the references to combine them in the manner relied upon in the Office Action.

Reconsideration is requested. Allowance is solicited.

Enclosed is a check for \$176 in payment of the small entity fee for ten additional total claims and two additional independent claims.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,

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